

## **Chapter 20: Mineral Extraction Operation Addendum**

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**2000 Effective Date**

This addendum and its provisions are effective retroactive to February 22, 2014 and apply to all matters, proceedings, applications and actions pending as of, or occurring subsequent to that date, except to the extent restricted or prohibited by the provisions of 30-A M.R.S.A. §3007(6), in which case, as to those matters only, they shall apply to the maximum extent not restricted or prohibited by the provisions of §3007(6).

**2001 Exemptions**

**This Addendum shall not apply to the following:**

**2001.1** Mineral exploration whose sole purpose is the determination of the nature and/or extent of mineral resources, accompanied by hand-sampling, test boring, or other methods which create mineral disturbance. Test holes shall be filled in immediately after use;

**2001.2** Mineral extraction operations that affect less than five thousand (5,000) square feet of surface area, or the removal or handling of less than three hundred (300) cubic yards of material in less than twelve (12) months;

**2001.3** Storage or Stockpiles of winter abrasives (sand) used for the maintenance of private or public roads. This applies to the stockpile or storage area itself and not any associated mineral extraction activity or area;

**2001.4** Removal or filling of material incidental to construction, alteration or repair of a structure, or in the landscaping incidental thereto, pursuant to work legally permitted and authorized by the proper authorities;

**2001.5** Construction of farm and fire ponds; and water management berms; and

**2001.6** Any active existing mineral extraction operation that has been in operation in the twelve months prior to adoption of this Addendum, except the operation must register in accordance with 2002.1 below.

**2002 Application****2002.1 Existing Operations**

Within one hundred and eighty (180) days of the approval of this Addendum, all MEOs existing as of that date, shall register with the Planning Board, and submit the following:

**2002.1.1** Registration fee.

**2002.1.2** Names and addresses of the current owner of the MEO and the operator, and a copy of the deed or lease, if the operator is not the property owner.

**2002.1.3** Evidence that the MEO qualifies as an existing operation, boundaries of the tract of land showing lot lines, total acreage of entire parcel, existing excavation areas, depth and height of existing excavation, structures on property, area used for storage of topsoil

and other overburden, location of hazardous material storage areas, location of existing public and private streets, roadways, rights of way, and access roads, the amount of earth material annually extracted, whether processing of materials is done on the site, the nature and amount of that processing, the average daily number of trucks taking material in or out of the site, and the number of employees.

Any operation not registered, or which fails to qualify to be registered, pursuant to this section, shall be considered closed, and may not, after such 180 day period, continue or resume operation.

## **2002.2 New Operations and Expansion of Existing Operations**

### **2002.2.1 Requirements**

No new MEO or a pre-existing operation which failed to meet registration requirements of 2002.1, may commence operation, without first obtaining from the Planning Board approval of a new MEO permit. No MEO existing at the time of passage of this Addendum may expand without first obtaining approval from the Planning Board for an Expansion of an Existing Mineral Extraction Operation. Once an existing mineral extraction operation has reached a cumulative affected area of five (5) acres, no expansion is allowed until a new permit application has been approved by the Planning Board, and reclamation protocols from 2008.2.14 have been met.

### **2002.2.2 The applicant shall submit the following to the Planning Board:**

#### **2002.2.2.1 Application fee.**

**2002.2.2.2** Names and addresses of current owners of the property and the current operator. A copy of the deeds or lease agreements, if the operator is not the owner, with copies of all covenants, deed restrictions, easements, rights of way, or other encumbrances, including, but not limited to liens and mortgages currently affecting the property.

**2002.2.2.3** A site plan, prepared by a Maine licensed Professional Engineer, showing the following:

- a) Date plan prepared, scale of drawings, with north arrow (indicate true or magnetic).
- b) Boundaries of land showing lot lines, total acreage, existing and proposed excavation areas, existing and proposed structures both temporary and permanent on the property, anticipated depth and height of final excavation, areas to be used for storage of topsoil and other overburden for reclamation, limits of area(s) to be used for stockpile(s), location of proposed hazardous material storage areas, location of public and private streets, parking areas, roadways and rights of way, location of proposed access roads, estimated time schedule of future excavation, reclamation and closure, exposed ground water on site, and depth of ground water

at representative points throughout site as determined by test borings and other geotechnical methods.

- c) Present uses of the entire property, including existing excavated area, and present uses of adjacent properties.
- d) Contours of the parcel at five (5) foot intervals for all areas proposed for development.

**2002.2.2.4** A plan showing how security at the site will be controlled.

**2002.2.2.5** Location of residences and wells within 1,500 feet of property boundaries for borrow, clay, and silt MEOs. The distance is increased to 2,640 feet for rock quarry MEOs.

**2002.2.2.6** Operations statement, including the approximate date of commencement of excavation, duration of operation, proposed phasing of operation, proposed hours and days of operation, estimated volume of the excavation, method of extracting and processing (if applicable), disposition of topsoil or overburden, equipment proposed to be used in operation, and operational practices to be used to prevent surface or groundwater pollution, and minimize noise, dust, air contaminants and vibration.

**2002.2.2.7** Blasting plan, if any.

**2002.2.2.8** A plan showing, in addition to location of hazardous materials, provisions for safe storage of such material. No hazardous materials shall be located or stored such that they will enter the ground and surface water.

**2002.2.2.9** A Preservation of Natural & Historic Features map.

**2002.2.2.10** Maps and narrative description of the impact on significant wildlife habitat as outlined in 2008.2.1 below, including any proposed mitigation plan. Letters from the appropriate authoritative agencies shall be required as proof of compliance with performance standards for significant wildlife habitat.

**2002.2.2.11** A Spill Prevention, Control & Countermeasure Plan (SPCC).

**2002.2.2.12** Plan for screening the operation from abutters and public roads.

**2002.2.2.13** An erosion and sedimentation control plan, prepared with standards contained in the Maine Erosion and Sediment Control Handbook for Construction, Best Management Practices, current edition.

**2002.2.2.14** Reclamation Plan: In the same scale as the site plan, prepared by a licensed professional engineer or licensed landscape architect, requiring, at a minimum, the following:

- a) Final contours of site after reclamation at two (2) feet or less contour intervals.
- b) Areas which will be back-filled and restored with topsoil and other overburden, and depth of same.
- c) Areas which will contain water with measures to be taken to avoid stagnation and erosion.
- d) Phasing program of reclamation and timing.
- e) Landscape plan, indicating location and type of proposed landscape features including plant list.
- f) Location of driveways, roads, fences, and gates to be part of restoration program.
- g) Description of proposed final care of site.

Reclamation plan must comply with 2008.2.14 of this Addendum.

**2002.2.2.15** Identification of all required state and/or federal permits, including, if applicable, a Department of Environmental Protection permit as well as copies of all submissions made to any federal or state agency concerning the operation.

**2002.2.2.16** A proposed performance guarantee in accordance with Section 710 of this Zoning Ordinance and as deemed satisfactory by the Town Select Board, covering the cost of the reclamation plan or next phase when reclamation plan is divided into distinct sections. This guarantee shall be in place upon approval of the application and prior to granting of operation permit.

**2002.2.2.17** A list of all abutting property owners.

**2002.2.2.18** For new or expanding MEOs which will create a mineral extraction operation with a cumulative affected area of over five (5) acres, the following additional submissions are required:

- a) A hydrogeological evaluation, prepared by a qualified professional, which shows the depth of ground water throughout the site and establishes that the MEO will not cause any pollution to ground water and/or surface water, or negatively impact existing wells.
- b) A traffic study which sets forth what the maximum estimated volume of traffic into and out of the MEO will be, which describes the kinds of trucks and equipment which will be going into and out of the MEO, which describes any existing or potential traffic hazards on roads servicing the site, and applicant's plans to address

them, and which describes the ability of such roads physically to withstand the additional traffic generated by the site. The study shall consider the actual existing traffic condition in the vicinity of the MEO.

- c) Sound study which demonstrates compliance with 2008.2.11.

**2002.2.2.19** Any other pertinent information the Planning Board may require.

### **2003 Adjoining Mineral Extraction Activities That Join Under A Common Scheme of Development**

Adjoining mineral extraction activities that join under a common scheme of development separated by less than 500 feet of unaffected land shall be required to fulfill all the requirements as established in this Ordinance for the total size of the extraction area, including the adjoining site.

### **2004 Waiver of Submission**

Where the Board makes written finding of the fact that there are special circumstances of a particular MEO, and in MEOs that affect an area less than one (1) acre and over five thousand (5,000) square feet, it may waive portions of the submission requirements, providing the public health and safety and welfare are protected, and the waivers do not have the effect of nullifying the intent and purpose of this Addendum.

### **2005 Application Procedures**

**2005.1 Application forms** for MEOs shall be provided by the Town of Eddington, and submitted to the CEO, pursuant to Chapter 4 of this Zoning Ordinance. The application shall be accompanied by a fee pursuant to Section 305.3 Fees of this Zoning Ordinance.

### **2005.2 Public Hearing**

Mineral extraction applications for new operations and expansion of previous operations, of one acre or more in size, shall require a Public Hearing. Mineral extraction applications for new operations and expansion of previous operations, of one acre or less in size, may require a Public Hearing. Notifications shall be mailed to all abutters within 1,000ft of the subject parcel(s) property lines.

### **2006 Annual Inspections**

The CEO, or his/her designee, shall conduct an annual compliance inspection prior to the anniversary date of the original permit, to determine whether the permit holder has complied with, or deviated from, the approved plan. An annual compliance fee is required. The CEO may also require at his/her sole discretion, for the MEO operator to cover the cost of 3rd party inspections such as sound or environmental studies if in his/her opinion such studies are required to verify compliance with the applicable performance standards contained in this ordinance. Reports shall be provided to the Planning Board, Select Board, and permit holder. In case of non-

compliance, the CEO shall notify the permit holder via phone call and certified mailed letter, and allow the permit holder 48 hours to correct any issue(s). If compliance cannot be achieved within 48 hours, the permit holder shall notify the CEO via phone call and certified mailed letter, explaining the reason(s) for the delay. If the delay is reasonable, such as due to weather conditions or shipping delays for new/replacement equipment, the permit holder shall have an additional 48 hours to correct the issue(s). Thereafter, the CEO may issue a STOP WORK ORDER, EXCEPT FOR REMEDIAL ACTION, until such time as compliance is achieved.

## **2007 Conditions and Limitations**

### **2007.1 General**

Before any mineral extraction activity begins, the applicant shall obtain all applicable permits required by town, state, or federal regulations, laws, or ordinances regulating such developments. Violation of other permits necessary for operation shall be considered a violation of this Addendum.

Before a Final Plan has been approved, the following is not permitted:

1. No material from any MEO may be sold.
2. Development of the infrastructure of the MEO is not permitted, including buildings, roads, and utility installations, except for:
  - a) To gain reasonable access to the site to undertake the studies and tests and survey required to become permitted;
  - b) A legal purpose other than mineral extraction; or
  - c) Another authorized use.

### **2007.2 Expiration/Cease/Lapse in Activity**

Mineral Extraction initial permits shall expire two years from the date of issuance, unless the construction of mineral extraction activity has commenced. Thereafter, MEO operation permits shall expire if the MEO activity has ceased for a period of two years.

### **2007.3 Plan Revisions**

Plan revisions, after approval, shall be made as provided for in 2010.2 of this Addendum.

### **2007.4 Expert Consultant**

In the event that expert consultation is determined to be necessary under this Addendum, the charges for same shall be the responsibility of the applicant/operator.



## **2007.5 Transfer of Mineral Extraction Permit**

When an MEO ownership is transferred:

1. the transferor shall notify the CEO of the transfer five business days prior to execution, who if applicable, shall notify the Planning Board of said transfer;
2. the transferee shall file a Notice of Intent to Comply similar to that required by the MDEP - 38 M.R.S.A. §490-C (borrow pits) and §490-R (quarries); and
3. the transferee must provide a new performance guarantee acceptable to the Select Board. The performance guarantee provided by the transferor must remain in force until the transferee's performance guarantee has been accepted and is in force.

## **2008 Performance Standards**

### **2008.1 General Requirements**

**2008.1.1** Mineral extraction operations shall conform to all applicable State laws and local ordinances or regulations. Where the provisions of this article conflict with specific provisions of State laws or other town ordinances, the stricter provisions shall prevail.

**2008.1.2** The owner and/or operator of a mineral extraction activity shall be responsible, both jointly and severally, for ensuring the maintenance of all infrastructure, structures and their sites in a safe manner as outlined in state and local building codes, other applicable state regulations, and state and local land use ordinances.

**2008.1.3** In all cases, the applicant shall have the burden of proof that all requirements, standards, and conditions of this Addendum and Planning Board conditions of approval are met.

**2008.1.4** Where the Code Enforcement Officer and/or Planning Board determine there is a need for testing or measurements of standards during the application review phase, all reasonable testing shall be at the operator's expense.

**2008.1.5** The Planning Board shall consider financial capacity, technical ability, and prior performance in its review of any application. If the applicant is found to be deficient in any of these area, it may deny the application.

**2008.1.6** The Planning Board may deny the application if the application is not in compliance with other town, state or other regulations.

### **2008.2 Performance Standards**

Unless otherwise noted, and not required in the application requirements, these standards apply to all mineral extraction operations 5,000 square feet and above.

Existing mineral extraction operations, after registering with the Town, may continue to operate at their present size. However, any expansions or new operations shall be regulated by the standards of this Zoning Ordinance and Addendum.

### **2008.2.1 Significant wildlife habitat.**

Objective: To ensure that significant wildlife habitat is adequately protected. No mineral extraction operation may cause any detrimental effect to significant wildlife habitat.

Letters from the appropriate authoritative agencies shall be required as evidence of compliance with performance standards for significant wildlife habitat.

**2008.2.1.1** No mineral extraction site or area may be located within any of the significant wildlife habitat areas identified below. (see 2008.2.13 for required setbacks):

- a) Habitat for species appearing on the most recent official State or Federal lists of endangered or threatened species;
- b) High and moderate value waterfowl and wading bird habitats, including nesting and feeding areas;
- c) Shorebird nesting, feeding, and staging areas, and seabird nesting islands;
- d) Critical spawning and nursery areas for Atlantic sea run salmon as defined by the Atlantic Sea Run Salmon Commission;
- e) High or moderate value fish spawning and nursery areas that have been identified by the Maine Department of Inland Fisheries and Wildlife;
- f) High or moderate value deer wintering areas or travel corridors that have been identified by the Maine Department of Inland Fisheries and Wildlife;
- g) Any other important habitat areas identified in the Eddington Comprehensive Plan, as adopted; and as defined in Maine Title 38 M.R.S.A. Section 480-B or in an area listed pursuant to the Maine Natural Areas Program, Title 12, Section 544.

**2008.2.1.2** If any one of the above will be impacted, then secondary documentation required by the Planning Board or CEO may include, but is not limited to:

- a) An impact assessment report prepared by the appropriate authoritative agency or a qualified professional.

- b) A mitigation plan prepared by a qualified professional, such as a wildlife biologist, fisheries biologist, or botanist as appropriate.

### **2008.2.2 Solid waste and sewage disposal**

Solid waste, including stumps, wood waste and land-clearing debris generated on the affected land must be stored or disposed of in accordance with Maine Department of Environmental Protection (MDEP) Regulations, Chapter 404. See also Sections 804 and 807 of this Zoning Ordinance.

### **2008.2.3 Groundwater protection**

Objective: To provide an adequate buffer for ground water and allow for filtration of impurities from surface water.

**2008.2.3.1** No mineral extraction activity, including blasting, excavation, processing, storage or any related on-site activity, may cause the discharge of any liquid, gaseous or solid materials into surface or subsurface waters, if such discharge is of a nature, quantity, toxicity or temperature that may contaminate, pollute or harm such waters or cause nuisances, such as floating or submerged debris, oil or scum, discoloring, objectionable odor or taste, or that may be harmful to human, animal, or plant life.

**2008.2.3.2** No mineral extraction activity, including blasting, excavation, processing, storage or any related on-site activity, may cause any pollutant to be deposited on or into the ground or discharged into the waters of the State, if such deposit or discharge, by itself or in combination with other activities or substances, will impair designated uses or the water classification of any water body, tributary stream, or wetland.

**2008.2.3.3** Extraction may not occur within 5 feet of the seasonal high water table, except as noted in the table in 2008.2.13.1 Minimum Setbacks. At the applicants' expense, a benchmark sufficient to verify the location of the seasonal high water table must be established and at least three test pits or monitoring wells to measure both quantity and quality, must be established on each five acres of unreclaimed land, to assure there are no adverse impacts to any water supplies or wells, public or private, off site. These wells shall be located as one upgradient and two downgradient.

**2008.2.3.4** No mineral extraction may reduce the quantity or quality of any public or private drinking water supply. Predevelopment water quantity and quality data must be collected for a year in accordance with MDEP regulations, prior to operation, to establish reference values for any public or private water supply within 1,000 feet of a mineral extraction.

**2008.2.3.5** A mineral extraction activity must not withdraw more than 5,000 gallons of ground water per day, unless a hydrogeologic evaluation performed by

a qualified professional, determines this will not represent an environmental hazard or threaten drinking water supplies.

**2008.2.3.6** All storage facilities for fuel or chemicals must comply with the applicable rules and regulations of the Maine Department of Environmental Protection and the State Fire Marshal's Office.

**2008.2.3.7** Refueling operations, oil changes, other maintenance activities requiring the handling of fuels, petroleum products and hydraulic fluids and other on site activity involving storage or use of products that, if spilled, may contaminate groundwater, must be conducted in accordance with the SPCC Plan and follow Performance Standards for the Storage of Petroleum Products as outlined and included in the most recent MDEP guidelines.

**2008.2.3.8** Routine maintenance operations are allowed for fixed equipment such as screeners provided that precautionary measures such as portable drip pans or vacuum devices are used.

**2008.2.3.9** If the Planning Board reasonably determines that independent evaluation and consultation would assist it to determine if the applicant has met the standard regarding risks of pollution, it may require additional information or evidence, either from the applicant, or by one or more of the following means:

- a) Review of the applicants hydrogeology study or assessment prepared by a qualified professional.
- b) A design for the handling and storage of materials at risk of polluting surface or subsurface waters, prepared by a qualified professional
- c) A professional review of any private or public water supply system
- d) A water quality or quantity test.

The cost of these items shall be borne by the applicant, but the Planning Board shall have authority to determine which professionals to undertake any such investigation or consultation.

**2008.2.3.10** Standards for Ground Water Impacts

- a) Projections of ground water quantity and quality shall be based on the assumption of drought conditions (assuming 60% of annual average precipitation).
- b) No mineral extraction activity shall increase any predevelopment contaminant concentration in the ground water to more than one half of the Federal Primary Drinking Water Standards at the property boundary. No mineral extraction activity shall increase

any contaminant concentration in the ground water to more than the Federal Secondary Drinking Water Standards at the property boundary

- c) If ground water contains contaminants in excess of the primary standards, and the activity is to be served by on-site ground water supplies, the applicant shall demonstrate how water quality will be improved or treated, if necessary.

#### **2008.2.4 Natural buffer strip**

Existing vegetation within a natural buffer strip may not be removed. If vegetation within the natural buffer strip has been removed or disturbed by the excavation or activities related to the mineral extraction operation prior to submission, that vegetation must be reestablished as soon as practicable.

#### **2008.2.5 Protected natural resources**

**2008.2.5.1** A natural buffer strip must be maintained between the working edge of an excavation and a river, stream, brook, great pond, coastal wetland or freshwater wetland as defined in Title 38 M.R.S.A., Section 480-B. The width requirements for natural buffer strips are as follows:

**2008.2.5.2** A natural buffer strip at least 100 feet wide must be maintained between the mineral extraction operation and the normal high water line of any permanent surface water body or wetland.

**2008.2.5.3** A natural buffer strip at least 75 feet wide must be maintained between the mineral extraction operation and the normal high water line of a seasonal water body or wetland.

#### **2008.2.6 Public and private roads**

A natural buffer strip at least 150 feet wide must be maintained between the working edge of an excavation and any public road right of way and a strip at least 50 feet wide must be maintained from the edge of any off-site private road. No below grade excavation or mining shall be allowed within 200 feet of any public road right of way.

#### **2008.2.7 Property boundary and buffers**

**2008.2.7.1** All buffers must be preserved in their natural vegetative state as existed six months prior to an application for a new mineral extraction operation, or for an expansion to an existing mineral extraction operation, in the natural vegetative state that existed at time of initial licensing by the Town. If the natural buffer has been disturbed, the disturbance shall be explained to the Board and the Board shall determine if any replanting is necessary.

**2008.2.7.2** To minimize visual impacts and provide for wildlife, a natural buffer strip at least 50 feet wide must be maintained between property boundaries.

**2008.2.7.3** A natural buffer strip at least 300 feet wide must be maintained between all mineral extraction operations and the closest edge of an existing residence, business, or farm building used for livestock on abutting properties at the time of the application.

**2008.2.7.4** A natural buffer strip at least 100 feet wide (quarries) and 50 feet wide (borrow pits) must be maintained between an excavation and any property boundary.

**2008.2.7.5** The natural buffer strip between excavations owned by abutting owners may be eliminated with the abutter's written permission, provided the elimination of this buffer strip does not increase the runoff from either excavation across the property boundary.

**2008.2.7.6** To protect abutters from dust, noise and unsightly appearance, the Planning Board shall require the applicant to provide screening to shield all operations from surrounding property where there is inadequate natural buffer. Trees may be required for a buffer. The buffer material must be effective all year round. Buffers must be complete before excavation begins.

**2008.2.7.7** A physical barrier, in the form of a vegetated buffer or screening or a combination of both, must be provided to minimize any detrimental effect of a mineral extraction operation beyond its property lines, to the greatest practical extent. The barrier must be long enough, wide enough, high enough and sufficiently dense or otherwise appropriately designed to serve its intended purpose.

**2008.2.7.8** Buffers adjacent to a protected natural resource must comply with the requirements of the Natural Resources Protection Act.

**2008.2.7.9** Buffer strips must be comprised of vegetation species that the Planning Board or CEO find suitable and sufficient to accomplish the required mitigation. The buffer strip is intended to be effective year round. Plant material should be comprised of a variety of native deciduous and evergreen species. All buffer strips must be maintained by the owner.

**2008.2.7.10** Except for buffers subject to requirements of 2008.2.7.7 and 2008.2.7.8, buffer strips may be replaced by screening if the screening provides at least an equivalent level of mitigation as a buffer strip for the relevant detrimental effects. Screening must comply with the following requirements:

- a) Screening may be comprised of man-made objects such as buildings, structures, earth berms or fences. Any such object must be in good repair and maintained as required. Mobile homes,

vehicles, box trailers and similar structures may not be used for screening purposes.

- b) Screening may be comprised of natural features in the topography of a site such as hills, gullies, or rock outcrops.
- c) Fencing must be constructed with materials designed for such use. The installation must be designed to resist the effects of frost.
- d) Fences must be properly maintained by the owner. Structures and fences used for screening should be located at a sufficient distance from property lines to allow access for maintenance on all sides without intruding upon abutting properties.

### **2008.2.8 Erosion and sedimentation control**

**2008.2.8.1** All reclaimed and unreclaimed areas, except for access roads, must be naturally internally drained unless an engineering plan is provided and approved by the Planning Board.

**2008.2.8.2** All erosion and sedimentation plans must conform to standards outlined in the Maine Erosion and Sediment Control Handbook for Construction, Best Management Practices, most recent edition.

**2008.2.8.3** Stockpiles consisting of topsoil to be used for reclamation must be seeded, mulched or otherwise temporarily stabilized.

**2008.2.8.4** Sediment may not leave the parcel or enter a protected natural resource.

**2008.2.8.5** Grubbed areas not internally drained must be stabilized.

**2008.2.8.6** Erosion and sedimentation control for access roads must be conducted in accordance with MDOT best management practices for erosion and sedimentation control.

**2008.2.8.7** Land shall be restored and stabilized according to the Reclamation Plan

### **2008.2.9. Surface water protection and storm water management**

**2008.2.9.1** Surface water discharges from areas not required to be naturally internally drained may not be increased as a result of storm water runoff from storms up to a level of a 25-year, 24-hour storm as defined by the US Geological Survey. Accumulated water from precipitation must be put into sheet flow whenever possible. Any discharge points must be directed to an undisturbed natural buffer strip. The discharge point must be at least 250 feet away from a

protected natural resource. The slope of the discharge area shall be less than or equal to 15%.

**2008.2.9.2** For projects exceeding 1 acre, a volume calculation shall be provided demonstrating that the area(s) will safely handle a volume of precipitation at least equal to that which may be expected in the area from the 25-year, 24-hour storm event for the region, such that post-development stormwater runoff rates may not exceed pre-development stormwater runoff rates.

**2008.2.9.3** No Mineral extraction may increase or alter storm water flows without first implementing appropriate storm water management controls to prevent environmental damage, flooding, property damage, or the overburden of existing storm water management systems or features.

**2008.2.9.4** No grading or other construction activity may alter existing natural drainage to the extent that drainage will adversely affect adjacent property or that drainage ways flowing from adjacent parcels of land to the project will be impeded.

**2008.2.9.5** The Planning Board or CEO may require storm water to be externally-drained from the working pit of any rock excavation if there is reasonable concern that groundwater pollution would occur from stormwater that is internally-drained, or if the working pit extends below the annual high-water table.

**2008.2.9.6** External drainage of stormwater from excavation MEO is subject to compliance with the following requirements:

- a) Stormwater intended to be externally-drained from a working pit or related impervious areas must be drained to an engineered storage facility for required treatment and disposal.
- b) Stormwater must be discharged from a storage facility at a rate that may not exceed the pre-development stormwater runoff rate for storms up to a level of intensity of a 25-year, 24-hour storm.
- c) The design of stormwater storage facilities must address safety, appearance, and the cost and effectiveness of maintenance operations, in addition to the primary storage function.
- d) Any drainage variance required by MDEP must be granted.
- e) All stormwater facilities must be properly maintained. Stormwater management plans must define maintenance requirements and identify parties responsible for the required maintenance.

**2008.2.9.7** The disposal of stormwater on-site must use existing natural runoff control features of the site to the greatest extent possible. Natural runoff control



features include, but are not limited to, earth berms, swales, terraces, and wooded areas.

**2008.2.9.8** Natural and man-made drainage ways and drainage outlets must be stabilized with vegetation or riprap to prevent erosion caused by water flowing through them.

**2008.2.9.9** Easements must be provided to the municipality where appropriate to ensure proper maintenance of drainage ways. Easement widths must be sufficient to allow access for maintenance and repairs to the drainage way or any structures therein, and in no case may the width be less than 30' wide. If the municipality needs to perform this work, it shall be at the operator's expense.

**2008.2.9.10** A stormwater management plan must be submitted to the Planning Board or CEO for any mineral extraction subject to State permitting in accordance with 38 M.R.S.A. § 420-D (the Stormwater Management Law), 38 M.R.S.A. § 481 (the Site Location of Development Law) or any mineral extraction that is within the watershed of a great pond at risk from development, as identified by the Maine Department of Environmental Protection. A stormwater management plan is also required for any other mineral extraction if external drainage of stormwater is required in accordance with section 9.3, or if the Planning Board or CEO has determined by majority vote that the risk of detrimental effects to abutting properties or the environment warrants an engineered design for the management of stormwater.

**2008.2.9.11** Stormwater management plans must be prepared by a Maine licensed Professional Engineer.

## **2008.2.10 Traffic**

The following provisions govern traffic.

Objective: To ensure that any detrimental effects to the safety and sufficiency of streets are adequately mitigated.

**2008.2.10.1** Any street providing direct access to a mineral extraction must have the capacity to accommodate expected traffic flow increases, so as to avoid unreasonable congestion or safety hazards.

**2008.2.10.2** Where necessary to safeguard against hazards to traffic or to avoid traffic congestion, provision must be made for turning lanes or traffic controls.

**2008.2.10.3** Entrances and exits of the mineral extraction operation onto a public way must be located, posted and constructed in accordance with standards for roadways adopted by the Town of Eddington Zoning Ordinance and the DOT. Adequate distances for entering, exiting and stopping must be maintained in accordance with these standards.

**2008.2.10.4** A traffic study may be required at the discretion of the Planning Board, when there are documented concerns from MDOT, the municipal road commissioner, the municipal public safety department, a qualified traffic engineering professional or local residents, about traffic safety or capacity deficiencies of a public road that may occur due to increased truck traffic to and from the mineral extraction operation. The public road must provide direct access to the entrance for the mineral extraction operation in order to warrant a traffic study.

**2008.2.10.5** Full traffic study requirement:

If the operator will meet a) or b) below, the operator shall provide a full traffic impact study at his or her own expense. This study is subject to review by another consultant of the Town's choosing at the operator's expense. The safety and congestion mitigation measures recommended shall be followed by the operator.

- a) Volume. If during any one hour period, traffic attributable to the development equals or exceeds 35 trips at the project driveway(s). A trip can be either inbound or outbound.
- b) Safety or capacity deficiencies. The Planning Board, in consultation with the Maine Department of Transportation, determines that a traffic impact study must be conducted because of traffic safety or capacity deficiencies in the vicinity of the development.
- c) Content of full traffic study. If a full traffic study is required under paragraph i., as determined by the Planning Board, the developer/operator shall follow the procedures and requirements as detailed in "Access Management Standards, Access Management: Improving the Efficiency of Maine Arterials, A handbook for Local Officials", Maine Department of Transportation, most recent edition, Appendix A.

Any study is at the property owners expense and such study is subject to review by another consultant of the town's choosing.

Proposed improvements to existing public streets must be approved in writing by the Town of Eddington Selectboard, the town road commissioner, or the Maine Department of Transportation, as applicable.

**2008.2.11 Noise**

Objective: To ensure that any detrimental effects from noise are adequately mitigated and abutters may continue the peaceful enjoyment and use of their entire property.

**2008.2.11.1** The maximum permissible sound level of any continuous, regular, frequent, intermittent or periodic source of noise produced by any mineral extraction activity must comply with the requirements of this section.

**2008.2.11.2 Exemptions**

Sound associated with the following shall be exempt from regulations by the Planning Board:

- a) Warning signals and alarms.
- b) Safety and protective devices installed in accordance with code requirements.
- c) Test operations of emergency equipment occurring in the daytime and no more frequently than once per week.

**2008.2.11.3** The sound level limits contained in this regulation apply to all property lines of the proposed mineral extraction site or area, or contiguous property owned by the operator, whichever are further from the proposed operation's regulated sound sources.

**2008.2.11.4** The sound level limits contained in this regulation do not apply to noise within the mineral extraction site, area, or operation boundary.

**2008.2.11.5** Information to be supplied by applicant:

- a) List of equipment types and number of each piece of equipment.
- b) Manufacturer specifications for dB levels for each piece of equipment.
- c) Any additional information deemed necessary to fulfill the requirements of this section.

**2008.2.11.6** An independent third-party sound study shall be conducted by a qualified consultant of the Board's choosing. The cost of the study shall be borne by the Applicant. Alternatively, prior to commencement of the study, the Applicant may submit the credentials of an independent third-party consultant of their choosing, for the Board's review and approval. The study shall include written certification from a Qualified Independent Acoustical Consultant that the noise measurements are accurate and the noise from the completed development will conform to this section.

**2008.2.11.7** All instruments and other tools used to measure audible, inaudible and low frequency sound shall meet the requirements for ANSI or IEC Type 1 Integrating Averaging Sound Level Meter with one-third octave band analyzer with frequency range from 6.3 Hz to 20k Hz and capability to simultaneously

measure dBA LN and dBC LN. The instrument must also be capable of measuring low level background sounds down to 20 dBA, and must conform, at a minimum, to the requirements of ANSI S1.43-1997. Measurements shall only be made with the instrument manufacturer's approved wind screen. A compatible acoustic field calibrator is required with certified  $\pm 0.2$  dB accuracy.

**2008.2.11.8** Pre development background noise levels shall be measured at each property boundary line of the proposed development, as well as representative Protected Locations within a one-mile radius of the property boundary of the proposed development. Readings shall be taken at representative times throughout the proposed hours of operation, including at night if any equipment is proposed to run after operation hours (i.e. pumps, generators, etc), at the same location along each of the property boundary lines. Readings shall not be taken when construction activity, abnormal traffic conditions or other extraordinary conditions are occurring within 500 feet of the property boundary.

**2008.2.11.9** The duration of each measurement shall be ten continuous minutes at each location. Longer-term tests are not appropriate. The duration must include at least six minutes that are not affected by transient sounds from near-by and non-natural sources. Multiple ten-minute samples over longer periods may be used to improve the reliability, in which case the quietest ten-minute sample will be used.

**2008.2.11.10** Measurements shall be taken during the time of day (or night, if applicable as described above) expected to have the quietest background sound level, as appropriate for the site.

**2008.2.11.11** Measurements must be made on a weekday of a non-holiday week.

**2008.2.11.12** Measurements must be taken at a height of four feet above the ground and at least fifteen feet away from any reflective surface, following ANSI S12.9 Part 3 protocol together with any other requirements found in this Addendum or Zoning Ordinance.

**2008.2.11.13** Measurements taken when the wind speeds exceed 4.5 miles per hour at the microphone location are not valid. A windscreen of the type recommended by the monitoring instrument manufacturer must be used for all data collection.

#### **2008.2.11.14 Sound Level Limits**

Except as allowed for production blasting, the hourly sound levels resulting from the mineral extraction operation shall not exceed the following limits:

- a) The proposed development shall not cause the pre development background noise level to increase by 10 decibels (dBA) during the day and 5 decibels (dBA) at night. In no case shall the ambient noise level as measured from the property boundary exceed the following absolute noise criteria:

- b) The maximum permissible noise from any continuous, regular, or frequent source of sound at a project property boundary shall be no more than 60 decibels between the hours of 7:00 a.m. to 5:00 p.m. and 45 decibels at all other times unless more strictly specified elsewhere in this addendum for a given activity.
- c) When a proposed mineral extraction operation is to be located in an area where the daytime pre-development ambient hourly sound level at a Protected Location is equal to or less than 45 dBA and/or the nighttime pre-development ambient hourly sound level at a Protected Location is equal to or less than 35 dBA, the hourly sound levels resulting from routine operation of the mineral extraction operation shall not exceed: 55 dBA between 7 a.m. and 5 p.m. and 40dBA at all other times.
- d) The applicant shall modify the development as necessary to ensure that the noise emanating from the project conforms to the noise limits set forth in this section.

#### **2008.2.11.15 Sound from Production Blasting**

Sound exceeding the preceding limits and resulting from production blasting at a mineral extraction site or area shall be limited as follows:

Sound from blasting shall not exceed the following limits at any Protected Location:

Number of Blasts Per Day	Sound Level Limit
1	129 dbl
2	126 dbl
3	124 dbl
4	123 dbl

Blast sound shall be measured in peak linear sound level (dbl) with a linear response down to 5 Hz.

Refer to Bureau of Mines Report of Investigations 8485 for information on airblast sound levels and pertinent scaled distances.

**2008.2.11.16** The Planning Board may, as a term or condition of approval, establish any reasonable requirement to ensure that the mineral extraction operator has made adequate provision for the control of noise from the operation, and to reduce the impact of noise on protected locations. Such conditions may include, but are not limited to, enclosing equipment or operations, imposing limits on hours of operation, or requiring the employment of specific design technologies, site design, modes of operation, or traffic patterns.

**2008.2.11.17** The sound level limits prescribed in this regulation shall not preclude the Planning Board from requiring a mineral extraction operator to demonstrate that sound levels from a mineral extraction operation will not unreasonably disturb wildlife or adversely affect wildlife populations.

**2008.2.11.18** The burden is on the Applicant to provide sufficient information to establish that the mineral extraction operation will meet the requirements of this Addendum and Zoning Ordinance.

#### **2008.2.12 Dust and Air Pollution**

Air pollution in the form of dust and dirt shall be kept to a minimum by the use of modern equipment and methods of operation designed to avoid excessive dust, dirt or other air pollution injurious or substantially annoying to adjoining property owners. Emission of dust and dirt at any point beyond lot lines may not exceed the guidelines set forth in this section.

**2008.2.12.1** All air pollution control shall comply with minimum State requirements and all applicable equipment must have a current MDEP Air Emissions License.

**2008.2.12.2** Dust generated by activities at the MEO site, including dust associated with traffic to and from the MEO site, must be controlled by a vacuum sweeper, paving, watering or other best management practices for control of fugitive emissions, pursuant to Maine DEP Erosion and Sediment Control BMP guidelines. Dust control method may include the application of calcium chloride, providing the manufacturer's labeling guidelines are followed. Visible emissions from a fugitive emission source may not exceed an opacity of 20% for more than 5 (five) minutes in any one hour period.

**2008.2.12.3** All access/egress roads leading to/from the extraction site to public ways shall be treated to reduce dust and mud for a distance of at least 100 feet from such public ways.

**2008.2.12.4** Loaded vehicles shall be suitably covered to prevent dust and contents from spilling or blowing from the load, and all trucking routes and methods shall be subject to approval by the Planning Board to keep trucking off residential streets whenever possible. Vehicles must abide by weight load limits on streets and ways. Spillage of extracted materials on public streets shall be removed by the licensee or his/her agent and /or the trucking operation(s) having any liability for such spillage, as soon as possible. Liability for violations deemed a nuisance shall be assigned to those truck operators and owners responsible and carry fines as set by the Select Board, especially to compensate the Town for any expenses incurred in ensuring safety of the area and traffic flow.

**2008.2.12.5** No mineral extraction may emit smoke or dust beyond the property boundaries in such concentration and duration that causes any detrimental effects including, but not limited to:

- a) Excessive soiling or staining of property
- b) Excessive surface accumulation of particulates
- c) Hazardous reduced visibility for motorists
- d) Breathing difficulties or other adverse health effects

**2008.2.12.6** The Planning Board or CEO may consider the direction of prevailing winds, and existing vegetation and topography in determining the risk of detrimental effect of smoke or dust on abutting properties and the public

**2008.2.12.7** If the Planning Board or CEO reasonably determines that additional evidence would assist it to determine if the applicant has met the standard regarding risks of smoke or dust pollution, then it may require additional information or evidence, either from the applicant, or by one or more of the following means:

- a) Baseline air quality review findings, and a possible second review after operations have commenced, if a problem has been reported.
- b) A mitigation plan prepared by a qualified professional.

**2008.2.12.8** No mineral extraction may emit putrid, fetid or noxious odors beyond the property boundaries in such concentration and duration that causes a detrimental effect to the use and enjoyment of property or to the public health and safety.

**2008.2.12.9** The Planning Board or CEO may consider the direction of prevailing winds, and existing vegetation and topography in determining the risk of detrimental effect of odors on abutting properties and the public.

**2008.2.12.10** The Planning Board or CEO may require secondary documentation of any mineral extraction that may be a source of putrid, fetid or noxious odors.

**2008.2.12.11** Secondary documentation required by the Planning Board or CEO may include, but is not limited to:

- a) An analysis or study of the detrimental effects of specific nuisance odors prepared by a qualified professional
- b) An odor mitigation plan prepared by a qualified professional.

**2008.2.13 Dimensional Standards****2008.2.13.1 Minimum Setbacks**

<b>MINIMUM SETBACK OF →</b>	<b>A STONE EXCAVATION</b>	<b>A GRAVEL OR SAND EXCAVATION</b>	<b>A CLAY, PEAT OR SILT EXCAVATION</b>	<b>A TOPSOIL EXCAVATION</b>	<b>A PROCESSING OR STORAGE AREA</b>
<b>FROM ↓</b>					
<b>1. THE PROPERTY LINES OF:</b>					
1.A. A PROTECTED LOCATION LOT	100' [1]	100' [1]	100' [1]	100' [1]	100' [1]
1.B. ANY OTHER LOT	100'	100'	100'	100'	100'
1.C. A CEMETERY OR BURIAL GROUND	100'	50'	50'	50' [1]	50'
<b>2. STRUCTURES</b>	1,500' [1]	1,000' [1]	1,000' [1]	1,000' [1]	1,000' [1]
<b>3. THE SHORELINE OF:</b>					
3.A. A GREAT POND, OR RIVER OR STREAM FLOWING TO A GREAT POND	250' [1]	250' [1]	250' [1]	250' [1]	250' [1]
3.B. ANY OTHER RIVER OR STREAM, AS DEFINED	250' [1]	250' [1]	250' [1]	250' [1]	250' [1]
3.C. ANY FRESHWATER WETLAND, AS DEFINED	250' [1]	250' [1]	250' [1]	250' [1]	250' [1]
<b>4. THE RIGHT OF WAY OF:</b>					
4.A. A PUBLIC ROAD	100' [1]	100' [1]	100' [1]	100' [1]	100' [1]
4.B. A PRIVATE ROAD	100' [1]	100' [1]	100' [1]	100' [1]	100' [1]
4.C. A PUBLIC WAY WITHOUT A ROAD	100' [1]	100' [1]	100' [1]	100' [1]	100' [1]
4. D. A PRIVATE WAY WITHOUT A ROAD	100' [1]	100' [1]	100' [1]	100' [1]	100' [1]
<b>5. A PREDEVELOPMENT PRIVATE DRINKING WATER SUPPLY THAT IS:</b>					
5.A. A POINT-DRIVEN OR DUG WELL.	1,500' [1]	1,000' [1]	1,000' [1]	1,000' [1]	1,000' [1]
5.B. A DRILLED WELL	1,500' [1]	1,000' [1]	1,000' [1]	1,000' [1]	1,000' [1]
<b>6. A PUBLIC DRINKING WATER SOURCE</b>	1,500' [1]	1,000' [1]	1,000' [1]	1,000' [1]	1,000' [1]
<b>7. THE SEASONAL HIGH WATER TABLE</b>	NONE [2]	5' [1]	5' [1]	5' [1]	5' [1]
<b>8. SIGNIFICANT WILDLIFE HABITAT</b>	250' [1]	250' [1]	250' [1]	250' [1]	250' [1]

[1] The setback may not be reduced by variance.

[2] Excavation below the seasonal high water table must be approved by DEP.



**2008.2.14 Reclamation**

The affected land must be restored to a condition that is similar to or compatible with the conditions that existed before excavation. Extraction operations shall be considered completed when there has been no activity for 731 days, and reclamation activities shall begin. Reclamation shall be conducted in accordance with the MDEP's best management practices for erosion and sedimentation control and must include the following:

**2008.2.14.1** Highwalls, or quarry faces, must be treated in such a manner as to leave them in a condition that minimizes the possibility of rock falls, slope failures and collapse. A highwall that is loose must be controlled by the use of blasting or scaling, the use of safety benches, the use of flatter slopes or reduced face heights or the use of benching near the top of the face or rounding the edge of the face.

**2008.2.14.2** Side slopes of gravel pits must be regraded to a slope no steeper than four (4) feet horizontal to one (1) foot vertical.

**2008.2.14.3** Within six months of the completion of extraction operations, ground levels and grades shall be established in accordance with the reclamation plan; within 30 days of final grading, topsoil must be placed, seeded and mulched; all dependent upon seasonal weather conditions. Vegetative cover must be established on all affected land, except for quarry walls and flooded areas. This requirement may be waived if the CEO determines that the slope(s) exhibit substantial vegetation and are stable.

**2008.2.14.4** Vegetative cover is acceptable if within one year of seeding:

- a) The planting of trees and shrubs results in a permanent stand or a stand capable of regeneration and succession sufficient to ensure a 75% survival rate; and
- b) The planting of all material results in permanent 90% ground cover.

**2008.2.14.5** Vegetative cover used in reclamation must consist of grasses, legumes, herbaceous or woody plants, shrubs, trees or a mixture of these. These should be native to the area where the project is located.

**2008.2.14.6** All access roads, haul roads and other support roads must be reclaimed, unless reserved for future productive use of the land, as described in the reclamation plan.

**2008.2.14.7** All structures or temporary shelters and equipment used in active extraction operation shall be removed within 30 days following completion of active extraction operations.

**2008.2.14.8** All affected lands must be reclaimed within 2 years after final grading.

**2008.2.14.9** Topsoil that is stripped or removed must be stockpiled for use in reclaiming disturbed land areas unless the applicant demonstrates that the soil is not needed for reclamation purposes. Stockpiles must be seeded, mulched or otherwise stabilized. Whenever practical, at least 4 inches of topsoil should be used for final cover.

**2008.2.14.10** The site must be reclaimed in phases so that the active extraction area does not exceed 5 acres at any time. This refers to the area of extraction and does not include roads, structures, stockpiles, etc. not part of the active mineral extraction operation.

**2008.2.14.11** The deed/s for subject property/properties must note that the land is operated as a MEO by either the owner or an entity other than the owner (must specify which), and further, the property/properties is/are subject to a reclamation plan fulfillment as a condition of permit approval. The deed/s shall be filed at the Penobscot County Registry of Deeds.

**2008.2.14.12** Upon completion of the reclamation, or the reclamation phase, a written reclamation certificate, signed by a registered professional engineer, shall be provided to the Select and Planning Boards.

#### **2008.2.15 Blasting**

Blasting shall be conducted in accordance with Maine DEP regulation Article 8-A Performance Standards for Quarries most current version, for all MEO's of any size, with the following additional restrictions:

**2008.2.15.1** The maximum allowable airblast at any inhabited building not owned or controlled by the developer may not exceed 129 decibels peak when measured by an instrument having a flat response (+ or - 3 decibels) over the range of 5 to 200 hertz

**2008.2.15.2** If necessary to prevent damage, the Planning Board may specify lower maximum allowable airblast levels than those in 2008.2.15.1 of this section for use in the vicinity of a specific blasting operation.

**2008.2.15.3** A preblast survey is required for all production blasting for all MEOs of any size and must extend for a minimum radius of 1/2 mile from the blast site. The preblast survey must document any preexisting damage to structures and buildings and any other physical features within the survey radius that could reasonably be affected by blasting. Assessment of features such as pipes, cables, transmission lines and wells and other water supply systems must be limited to surface conditions and other readily available data, such as well yield and water quality. The preblast survey must be conducted prior to the initiation of blasting at the operation. The owner or operator shall retain a copy of all preblast surveys for

at least one year from the date of the last blast on the development site. Any person owning a building within a pre-blast survey radius may voluntarily waive the right to a survey. If there is a change in homeowner during the duration of the MEO and the previous owner rejected a pre-blast survey, the new homeowner has the right to request a pre-blast survey.

**2008.2.15.4** The owner or operator is not required to conduct a preblast survey if the Board determines that no protected natural resource within the limits of the otherwise required survey is likely to be affected by blasting and production blasting will not occur within a half mile of any building not owned or under the control of the developer.

**2008.2.15.5** Blasting may not occur in the period between 3:00 p.m. and 10:00 a.m. of the following day.

**2008.2.15.6** Routine production blasting is not allowed on Saturday, Sunday, and holidays as specified in 2008.2.16. Detonation of misfires may occur outside of these times but must be reported to the Town Office within 5 business days of the misfire detonation.

**2008.2.15.7** Blasting may not occur more frequently than 4 times per day.

**2008.2.15.8** Under no circumstances shall the Planning Board permit any blasting within one hundred fifty (150) feet of an adjoining property line.

**2008.2.15.9** The maximum peak particle velocity at inhabitable structures not owned or controlled by the operator may not exceed the levels established in MDEP Article 8-A, Performance Standards for Quarries, current version, 38 M.R.S.A. § 490-Z.14.K. (Blasting), including Table 1 and the graph published by the U.S. Dept. of the Interior in "Bureau of Mines Report of Investigations 8507," Appendix B, Figure B-1.

**2008.2.15.10** Either of the above referenced guidelines must be used to evaluate ground vibration effects for those blasts for which a preblast survey is required and/or when blasting is to be monitored by seismic instrumentation.

**2008.2.15.11** The maximum allowable ground vibration may be reduced by the Planning Board beyond the limits otherwise provided by this section, if determined necessary to provide damage protection.

**2008.2.15.12** A record of each blast must be compiled in accordance with the specifications in the above mentioned Article 8-A, current version. In addition, pre-blast, blast, and post blast linear- peak sound levels in decibels shall be included for each airblast.

**2008.2.15.13** The records for each blast, including all monitoring records, shall be filed with the Town no more than ten (10) calendar days after each blast.

**2008.2.15.14 Blasting Schedule and Notification.** A blasting schedule shall be prepared by the blaster and be published in a newspaper of general circulation in the locality, at least 10 days, but not more than 30 days, before beginning a blasting program. Copies of the schedule shall be distributed via first-class mail at least ten days before beginning the blasting program, to the Town, public and private utilities and quasi-utilities, schools and to all abutters and residences within one mile of the proposed blasting site described in the schedule and, as outlined in 30 CFR 816.64, shall contain, at a minimum:

- a) 1) Name, address, and telephone number of operator;
- b) 2) Identification of the specific areas in which blasting will take place;
- c) 3) Dates and time periods when explosives are to be detonated;
- d) 4) Methods to be used to control access to the blasting area; and
- e) 5) Type and patterns of audible warning and all-clear signals to be used before and after blasting.

24 hours prior to the blast date(s), information shall be distributed via phone calls by the MEO Operator to the above-mentioned parties. MEO Operator shall maintain a written call log of date and time parties were called, whether the receiving party answered or a message was left.

**2008.2.15.15** Blasting will only occur at times when weather conditions will not cause adverse effects of surrounding properties, i.e., wind velocity that would carry dust to other properties. If weather or other site conditions inhibit the ability to blast between the above hours, the Town Manager or a Public Safety Official may grant the operator the ability to blast outside these times in order to ensure public safety. The operator and Town Manager or Public Safety Official shall jointly determine if the operator must notify by phone all parties as required per 2008.2.15.14.1

#### **2008.2.16 Hours of Operation**

The following shall apply to specific applications of the operation:

Blasting	10 am – 3 pm	Monday – Friday
Drilling	7 am – 5 pm	Monday – Friday
	7 am – noon	Saturday
Processing	7 am – 5 pm	Monday – Friday
Loading & Trucking	7 am – 5 pm	Monday – Friday
	7 am – noon	Saturday

**2008.2.16.1** No operations are allowed at night, on Sunday or on the following holidays: Memorial Day, Fourth of July, Labor Day, Thanksgiving, and Christmas.

**2008.2.16.2** In the case of emergency requests for sand or gravel from public safety officials, the above hours may be waived.

**2008.2.16.3** The Planning Board/Select Board may impose more restrictive operating hours pursuant to Section 402 of this Zoning Ordinance, if warranted by site conditions, or if the operation interferes with existing adjacent land uses.

**2008.2.16.4** If weather or other site conditions inhibit the ability to blast between the above hours, the Town Manager or a Public Safety Official may grant the operator the ability to blast outside these times in order to ensure public safety. The operator and Town Manager or Public Safety Official shall jointly determine if the operator must notify by phone all parties as required per 2008.2.15.14.

### **2008.2.17 Fencing and Security**

Fencing around dangerous excavations, pits, and pond areas shall be required at the Planning Board's discretion, to maintain public safety. Access to the mineral extraction operation shall be strictly controlled with locking gates at the entrance of access roads. When the pit is not being operated, all vehicular entrances shall be made impassable. The CEO will enforce any special conditions arising from the site plan review.

### **2008.2.18 Signs and Lighting**

Signs and lighting must comply with the standards of this Zoning Ordinance.

### **2008.2.19 Preservation of Natural and Historic Features**

The scenic, historic or environmentally sensitive areas or any areas identified in the Comprehensive Plan or by the Maine Natural Areas Program as rare and irreplaceable areas shall be preserved.

### **2008.2.20 Stockpiling**

Stockpiling of excavated materials subject to the definition in Chapter 11 of this Zoning Ordinance, is allowed subject to the following requirements:

**2008.2.20.1** Total cumulative stockpile area may not exceed two acres in footprint size, or twenty percent of the total area of the Mineral Extraction Site or Area, whichever is less.

**2008.2.20.2** Stockpiles consisting of materials that pose a sediment or erosion control issue shall be stabilized or covered at all times in accordance with standard Maine DEP Best Management Practices.

**2008.2.20.3** The limits of the stockpile area shall be clearly marked in a manner acceptable to the CEO, may include but is not limited to bollards or measurements

of offsets from nearby structures or landmarks, in order to establish the maximum extent of the pile area.

**2008.2.20.4** Stockpile areas shall be screened so as not to be visible to abutting properties.

### **2009 Performance Guarantees**

A performance guarantee must be required for improvements to public property that are required for a mineral extraction operation, including but not limited to road repairs, turning lanes, traffic signals, and signage.

A performance guarantee must be required for required reclamation.

Other performance guarantees may be required pursuant to Section 405 of this Zoning Ordinance.

#### **2009.1 Types and Contents of Guarantees**

Accompanying an application for Final Plan of new or enlargement of existing MEOs, one of the performance guarantees as outlined in section 710 of this Ordinance must be submitted for an amount adequate to cover the total cost of all required reclamation and improvements, taking into account the time-span of the production schedule and the inflation rate for construction costs. Any costs incurred by the municipality in reaching the appropriate number amount for the Performance Guarantee shall be borne by the applicant. It should contain the reclamation schedule, with date after which the permit holder will be in default, with estimates for each plan of reclamation, including inspection costs. The amount shall be determined by the Select Board after consultation with the Planning Board, Road Commissioner, Town Attorney, and/or other appropriate consultants.

#### **2009.2 Phased Guarantees**

The Board may approve Phased Performance Guarantees when an MEO is approved in separate distinct phases.

#### **2009.3 Release of Guarantees**

Prior to the release of any part of the performance guarantee, the Planning Board must determine that the improvements or reclamation subject to the guarantee meet or exceed the design and construction requirements for that portion or phase of the project for which the release is requested. The determination must be based on the report of a certified engineer or other consultant(s) retained by the municipality and any other agencies and departments that may be involved.

#### **2009.4 Default**

If, upon inspection by the CEO, or his/her designee, it is determined that the reclamation has not followed the previously approved plan, he/she shall so report to the Select Board, Planning

Board, and permit holder. The permit holder shall have thirty (30) days, unless otherwise notified, to remedy any deficiencies.

## **2009.5 Return of Guarantees**

Any guarantee remaining at the end of a project shall be returned to the permittee, plus any accrued interest.

## **2010 Miscellaneous**

### **2010.1 Costs**

The applicant shall be required to bear full costs of all inspection, consultants, and all enforcement. If the Planning Board determines the need of expert advice, applicant will be notified of name, qualifications, purpose for needing expert, and approximate cost for expert's services. Please see section 401.6 of this Zoning Ordinance

### **2010.2 Amendment after Approval**

No modifications shall be made in an approved Final Plan unless they have been resubmitted to and approved by the Planning Board. Applications to modify will be handled in the same manner and under the same standards as an initial application, except that, after initial review whether by pre-application meeting or otherwise, the Planning Board may, in cases involving modification involving less than 5% of the gross area of the active project, or merely technical modifications to meet any changing federal or state regulation, may waive a requirement of evidence of meeting those standards to the extent that the Planning Board has already determined that standard to have been met based on the prior permit and any modifications..

### **2010.3 Enforcement**

Please see Sections 201 and 202 of this Zoning Ordinance.

### **2010.4 Right of Entry Onto Land**

The CEO shall have the right of entry onto any mineral extraction activity site at reasonable times and after reasonable notice. If the operator, or its employee or agent, interferes with an inspection by the CEO, the CEO may seek an administrative search warrant pursuant to court rule 80E, and the operator shall pay the town a civil penalty in an amount determined by the Select Board plus any legal fees incurred in obtaining that warrant.

### **2010.5 Penalties**

Any activity that violates the terms or conditions of any MEO permit, approved by the Planning Board, or any activity that proceeds without a permit, shall be deemed a nuisance, and the owner/operator shall be subject to a civil penalty, expert witness fees, costs of court, and legal fees due and payable to the Town of Eddington, in an amount determined by the court in accordance with the penalty provisions of 30-A M.R.S.A. Section 4452.

**2010.6 Performance Record**

The Planning Board or CEO may consider the performance record of the applicant and those responsible for the management of the operation when developing conditions of approval addressing the operation of the facility. The performance record to be reviewed must include any prior violation, suspension, or revocation of a permit issued under this ordinance, or similar permits issued by any other agency of government, and any other environmental enforcement history. Any condition of approval related to an unsatisfactory performance record must be specifically intended to mitigate performance concerns.

**2010.7 Severability**

Please see Section 106 of this Zoning Ordinance.

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